IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27/06/2003

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA

WRIT PETITION.NO.7672 OF 1998

Tamil Nadu State Hand Pump
Fitters Helpers Association
(Reg.No.787/92),
Rep. by the State General Secretary
P. Sundara Sekhar .. Petitioner

-Vs-

1. The State of Tamil Nadu,
rep. by the Secretary to Govt.,
Rural Development (Thi 3)
Department,
Fort St. George, Chennai 9.

2. The Director of Rural Development,
Jeens Road, Panagal Building,
Saidapet, Chennai 15.

3. The Block Development Officer,
Kadaladi Panchayat Union,
Ramnad District.

4. The Block Development Officer,
R.S. Mangaam Panchayat Union,
Ramnad District.

5. The Block Development Officer,
Mudukulathur Panchayat Union,
Ramnad District.

6. The Block Development Officer,
Bogalur Panchayat Union,
Ramnad District.

7. The Block Development Officer,
Thiruvadanai Panchayat Union,
Ramnad District.

8. The Block Development Officer,
Nainar Koil Panchayat Union,

Ramnad District. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr.R. Singaravelan

For Respondents 1-2 : Mrs.N.G. Kalaiselvi
Special Govt. Pleader

Respondents 3-10: Mr.S. Natarajan

:J U D G M E N T

This writ petition has been filed on behalf of the Tamil Nadu State Hand Pump Fitters Helpers Association for quashing the order contained in Para (ii) relating to Hand Pump repairs and Para III relating to payment of Coolie for the repairs done by the Hand Pump Fitters Helpers in G.O.Ms.No.84 dated 5.5.1998 and direct the respondents to regularise the service of the members of the petitioner association with regular scale of pay.

2. It is claimed in the writ petition that the members of the Association have been serving as Hand Pump Fitters Helpers from the year 1 983 □ 1985 onwards on daily wage basis and such persons should be regularised and the direction contained in the impugned G.O., should be quashed.

3. Several contentions have been raised in the writ petition in support of the petitioner□s case. However, it is unnecessary to deal with those contentions as the writ petition is liable to be dismissed on a short ground relating to suppression of material facts.

4. As stated in the counter affidavit filed on behalf of the interveners, before filing of this writ petition, the very same petitioner had filed W.P.No.5981 of 1997 substantially for the same relief. It appears that in the said writ petition, prayer had been made for some interim relief which had not been granted. During pendency of the said writ petition, the present writ petition has been filed without disclosing about the pendency of the earlier writ petition. Subsequently it seems that W.P.No,.5981 of 1997 has been withdrawn without reserving the right to file a fresh writ petition with the same cause of action.

5. As rightly contended by the counsels for the respondents, a person who seeks the equitable relief under Article 226 of the Constitution must come to the Court with clean hands and there should not be suppression of any material facts. The filing of the present writ petition, without disclosing the fact that a similar writ petition had been filed by the very same petitioner and was pending, would amount to suppression of material facts. It is apparent that since the interim relief had not been granted in the earlier case, the petitioner had filed the subsequent writ petition

suppressing about the pendency of earlier writ petition and had moved for grant of interim relief and had also managed to obtain interim order, which subsequently appears to have been vacated. Be that as it may, there has been deliberate suppression of material facts dis-entitling the petitioner to seek for any relief in the present writ petition.

6. Moreover, the earlier writ petition for the similar relief has been subsequently withdrawn without indicating about the filing of the subsequent writ petition or obtaining leave to file a fresh writ petition on the similar grounds or to pursue the present writ petition.

7. As has been observed by the Supreme Court in A.I.R. 1987(1) SC 2 8 (SARGUJA TRANSPORT SERVICE v. STATE TRANSPORT APPELLATE TRIBUNAL M.P., GWALIOR & OTHERS), if earlier writ petition is withdrawn without obtaining permission from the court to file fresh writ petition on the same ground, the subsequent writ petition would not be maintainable. The position would not improve, if without disclosing about the pendency of the earlier writ petition the very same petitioner files a separate writ petition and thereafter withdraws the earlier writ petition without reserving any such right.

8. For the aforesaid reasons, without going into the questions raised by the petitioner, I deem it proper to dismiss the writ petition and it is accordingly dismissed. No costs.

Index : Yes
Internet : Yes
dpk

To

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